

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION**

UNITED STATES OF AMERICA,	)	Case No. 1:12CV376
	)	
Petitioner,	)	
	)	
v.	)	
	)	
FIFTH THIRD BANK,	)	
	)	
Respondent.	)	

**PETITION TO ENFORCE INTERNAL REVENUE SERVICE SUMMONS**

The United States of America, on behalf of its agency, the Internal Revenue Service, by the undersigned Assistant United States Attorney, aver to this Court as follows:

1. This is a proceeding brought pursuant to the provisions of sections 7402(b) and 7604(a) of the Internal Revenue Code of 1986, 26 U.S.C. §§ 7402(b) and 7604(a), to judicially enforce an Internal Revenue Service summons.

2. Gwendolyn Brenner is a duly commissioned Revenue Officer employed in the Small Business/Self Employed Division, Central Compliance Area, Internal Revenue Service, and is authorized to issue an Internal Revenue Service summons pursuant to the authority contained in Section 7602 of Title 26 U.S.C., and Treasury Regulation Section 301.7602-1, 26 C.F.R. § 301.7602-1.

3. The respondent, Fifth Third Bank, is located at 5050 Kingsley Drive, Cincinnati, Ohio 45221, within the jurisdiction of this court.

4. Revenue Officer Gwendolyn Brenner is conducting an investigation into the federal income tax liability of Richard and Jessica (Christy) Kerger, for the taxable years, 2000, 2001,

2002, 2003, 2004, 2005, 2006, and 2007, as set forth in the Declaration of Revenue Officer Gwendolyn Brenner, attached hereto as Exhibit 1.

5. The respondent, Fifth Third Bank, is in possession and control of testimony books, records, papers, and other data which are relevant to the above-described investigation.

6. On August 12, 2011, an Internal Revenue Service summons was issued by Revenue Officer Gwendolyn Brenner, directing the respondent, Fifth Third Bank, to appear before Revenue Officer Gwendolyn Brenner on September 16, 2011 at 12:00 p.m. to testify. An attested copy of the summons to the Recordkeeper was sent by certified mail to respondent, Fifth Third Bank, by Revenue Officer, Gwendolyn Brenner, on August 18, 2011. The summons is attached hereto and incorporated herein as Exhibit 2.

7. On September 16, 2011, the respondent, Fifth Third Bank, did not appear in response to the summons, but provided loan information via mail. The Respondent produced part of the information required by the summons. The respondent was subsequently contacted for additional information but did not provide the additional information required by the summons. The respondent's refusal to comply with the summons continues to date as set forth in the Declaration of Revenue Officer Gwendolyn Brenner, attached hereto as Exhibit 1.

8. The books, papers, records, or other data sought by the summons are not already in possession of the Internal Revenue Service.

9. All administrative steps required by the Internal Revenue Code for the issuance of a summons have been taken.

10. It is necessary to obtain the testimony and examine the books, papers, records, or other data sought by the summons in order to properly investigate the federal income tax liability of Richard and Jessica (Christy) Kerger for the taxable years 2000, 2001, 2002, 2003, 2004,

2005, 2006, and 2007, as is evidenced by the Declaration of Gwendolyn Brenner, attached hereto and incorporated herein as part of this petition.

WHEREFORE, the petitioner respectfully prays:

1. That the Court issue an order directing the respondent, Fifth Third Bank, to show cause, if any, why the respondent should not comply with and obey the aforementioned summons and each and every requirement thereof.

2. That the Court enter an order directing the respondent, Fifth Third Bank, to obey the aforementioned summons and each and every requirement thereof by ordering the attendance, testimony, and production of the books, papers, records, or other data as is required and called for by the terms of the summons before Revenue Officer Gwendolyn Brenner, or any other proper officer or employee of the Internal Revenue Service at such time and place as may be fixed by Revenue Officer Gwendolyn Brenner, or any other proper officer or employee of the Internal Revenue Service.

3. That the United States recover its costs in maintaining this action.

4. That the Court grant such other and further relief as is just and proper.

CARTER M. STEWART  
United States Attorney

s/Nicholas J. Pantel  
NICHOLAS J. PANTEL (0021329)  
Assistant United States Attorney  
Southern District of Ohio  
221 East 4th Street, Suite 400  
Cincinnati, Ohio 45202  
(513) 684-3711; Fax: (513) 684-6972  
nicholas.pantel@usdoj.gov